S.B. CIVIL MISC. APPEAL NO. 939/2006
[Jasoda Devi & Ors. Vs. Mahendra Singh & Ors.]

DATED : 17.07.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Rajesh Shah for the appellants.

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By way of this appeal against the award dated 26.10.2005 made by the Motor Accidents Claims Tribunal, Sirohi in Claim Case No.134/2004; the claimant-appellants seek enhancement over the compensation amount of Rs.8,20,000 awarded by the Tribunal on account of accidental death of Ramesh Chandra, husband of the appellant No. 1 and father of the minor appellants Nos. 2 to 4.

On 26.05.2004 the deceased Ramesh Chandra was riding a motocycle bearing registration No. RJ 09 2M 5660 with one Samrathmal; near Sarupganj on National Highway, the motorcycle was hit by an oncoming jeep bearing registration No. RJ 24 T-1215; the victim Ramesh Chandra sustained injuries and succumbed on the spot.

The present appellants claimed compensation on account of death of Ramesh Chandra stating his age at 39 years, his being engaged in business having a shop at Mumbai in the name of Radhika Fabrics and his income at Rs.9000/- per month.

The Tribunal found the accident to have occurred for rash and negligent driving of the aforesaid jeep RJ 24 T-1215 and held the respondents liable for compensation. While taking up quantification of compensation, the Tribunal found from the income-tax returns produced on record that the income of the deceased starting from the year 1995 at Rs. 20,000/- per annum has shown consistent growth and last return establish his income in the year 2003 at Rs. 67,000/- per annum. Taking an overall view of the matter, the learned Tribunal provided for some future growth prospects and took the average income of the deceased at Rs. 80,000/- per annum and deducting one-third for personal expenditure of the deceased, took the loss of dependency at Rs.53,000/- per annum and looking to the age of the deceased shown in the post-mortem report at 42 years, applied a multiplier of 15 and thereby calculated pecuniary loss at Rs.7,95,000/-. The Tribunal also awarded Rs.5,000/- as funeral expenses and Rs.20,000/- as non-pecuniary compensation towards loss of consortium to the wife and loss of love, affection and guidance to the children. The Tribunal has, therefore, made an award of Rs.8,20,000 in favour of the claimants and allowed them interest at the rate of 6% per annum from the date of filing of the claim application.

Learned counsel appearing for the appellants has contended that looking to the age and income of the deceased

and substantial future prospects, the amount awarded by the Tribunal remains too low and deserves suitable enhancement. Learned counsel also submitted that the Tribunal has erred in awarding interest only at the rate of 6% per annum.

Having examined the considerations adopted by the Tribunal and the award in its totality this Court is satisfied that this appeal deserves to be dismissed.

The Tribunal has taken a very reasonable view of the matter and because of consistent growth shown in the returns of income, has taken average income of the deceased at Rs. 80,000/- as against the last shown income of Rs. 67,000/- per annum, although the deceased was not in any settled employment but was carrying on business as a trader; and in such source of income, future uncertainties are also required to be kept in view while providing for future growth prospects. The deceased was alleged to be 39 years in age by the claimants whereas the post-mortem report stated his age at 42 years and looking to the overall circumstances of the case choice of multiplier of 15 cannot be said to be improper. Reasonable amount towards funeral expenses has been provided. Quantification of non-pecuniary loss is wee bit on the lower side, but cannot be said be wholly inadequate, being the amount of general damages only. The Tribunal has of course awarded interest only at the rate of 6% per annum but in view of the reasonable award made by the Tribunal and the present

prevailing rates, such choice of rate of interest cannot be said to be unjustified.

In ultimate analysis, this court is satisfied that the claimants have been allowed just compensation and there is no scope for upward revision in the award made in favour of the claimant-appellants.

In this view of the matter, there appears no reasonable ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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